

UNITED STATES DISTRICT COURT
for the
Eastern District of Texas

RANDALL M. SMITH
Plaintiff

v.

JP MORGAN CHASE BANK, N.A. and
QUALITY RECOVERY SERVICE, INC.
Defendants

Civil Action No. 2:16-CV-1051

DEFENDANT'S ORIGINAL ANSWER

TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW, Quality Recovery Service, Inc., Defendant in the above entitled and numbered cause, and files this its Original Answer to Plaintiff's Original Complaint and in support thereof would respectfully represent and show unto the Court the following:

ANSWER

1. Defendant is without knowledge or information sufficient to form a belief as to the truth of Plaintiff's allegations contained in Paragraph 1 of Plaintiff's Original Complaint; therefore, Defendant makes no response to those allegations or, in the alternative, denies same.

2. Defendant denies the allegations contained in Paragraph 2 of Plaintiff's Original Complaint.

3. Defendant denies the allegations contained in Paragraph 3 of Plaintiff's Original Complaint.

4. Defendant is without knowledge or information sufficient to form a belief as to the truth of Plaintiff's allegations contained in Paragraph 4 of Plaintiff's Original Petition relating to contentions against Chase; therefore, Defendant makes no response to those allegations or, in the

alternative, denies same. Defendant denies the remaining allegations contained in Paragraph 4 of Plaintiff's Original Complaint.

5. Defendant is without knowledge or information sufficient to form a belief as to the truth of Plaintiff's allegations contained in Paragraph 5 of Plaintiff's Original Complaint; therefore, Defendant makes no response to those allegations or, in the alternative, denies same.

6. Defendant is without knowledge or information sufficient to form a belief as to the truth of Plaintiff's allegations contained in Paragraph 6 of Plaintiff's Original Complaint; therefore, Defendant makes no response to those allegations or, in the alternative, denies same.

7. Defendant is without knowledge or information sufficient to form a belief as to the truth of Plaintiff's allegations contained in Paragraph 7 of Plaintiff's Original Complaint; therefore, Defendant makes no response to those allegations or, in the alternative, denies same.

8. Defendant is without knowledge or information sufficient to form a belief as to the truth of Plaintiff's allegations contained in Paragraph 8 of Plaintiff's Original Complaint; therefore, Defendant makes no response to those allegations or, in the alternative, denies same.

9. Defendant admits the allegations contained in Paragraph 9 of Plaintiff's Original Complaint.

10. Defendant is without knowledge or information sufficient to form a belief as to the truth of Plaintiff's allegations contained in Paragraph 10 of Plaintiff's Original Complaint; therefore, Defendant makes no response to those allegations or, in the alternative, denies same.

11. Defendant denies the allegations contained in Paragraph 11 of Plaintiff's Original Complaint.

12. Defendant is without knowledge or information sufficient to form a belief as to the truth of Plaintiff's allegations contained in Paragraph 12 of Plaintiff's Original Complaint; therefore,

Defendant makes no response to those allegations or, in the alternative, denies same, except to the extent that they have been admitted in preceding paragraphs.

13. Defendant denies the allegations contained in Paragraph 13 of Plaintiff's Original Complaint.

14. Defendant denies the allegations contained in Paragraph 14 of Plaintiff's Original Complaint.

15. Defendant denies the allegations contained in Paragraph 15 of Plaintiff's Original Complaint.

16. Defendant denies the allegations contained in Paragraph 16 of Plaintiff's Original Complaint.

17. Defendant denies the allegations contained in Paragraph 17 of Plaintiff's Original Complaint.

18. Defendant denies the allegations contained in Paragraph 18 of Plaintiff's Original Complaint.

19. Defendant is without knowledge or information sufficient to form a belief as to the truth of Plaintiff's allegations contained in Paragraph 19 of Plaintiff's Original Complaint; therefore, Defendant makes no response to those allegations or, in the alternative, denies same, except to the extent that they have been admitted in preceding paragraphs.

20. Defendant denies the allegations contained in Paragraph 20 of Plaintiff's Original Complaint.

21. Defendant denies the allegations contained in Paragraph 21 of Plaintiff's Original Complaint.

22. Defendant denies the allegations contained in Paragraph 22 of Plaintiff's Original Complaint.

23. Defendant denies the allegations contained in Paragraph 23 of Plaintiff's Original Complaint.

24. Defendant denies the allegations contained in Paragraph 24 of Plaintiff's Original Complaint.

25. Defendant is without knowledge or information sufficient to form a belief as to the truth of Plaintiff's allegations contained in Paragraph 25 of Plaintiff's Original Complaint; therefore, Defendant makes no response to those allegations or, in the alternative, denies same, except to the extent that they have been admitted in preceding paragraphs.

26. Defendant is without knowledge or information sufficient to form a belief as to the truth of Plaintiff's allegations contained in Paragraph 26 of Plaintiff's Original Complaint; therefore, Defendant makes no response to those allegations or, in the alternative, denies same.

27. Defendant is without knowledge or information sufficient to form a belief as to the truth of Plaintiff's allegations contained in Paragraph 27 of Plaintiff's Original Complaint; therefore, Defendant makes no response to those allegations or, in the alternative, denies same.

28. Defendant is without knowledge or information sufficient to form a belief as to the truth of Plaintiff's allegations contained in Paragraph 28 of Plaintiff's Original Complaint; therefore, Defendant makes no response to those allegations or, in the alternative, denies same.

29. Defendant is without knowledge or information sufficient to form a belief as to the truth of Plaintiff's allegations contained in Paragraph 29 of Plaintiff's Original Complaint; therefore, Defendant makes no response to those allegations or, in the alternative, denies same, except to the extent that they have been admitted in preceding paragraphs.

30. Defendant denies the allegations contained in Paragraph 30 of Plaintiff's Original Complaint.

31. Defendant denies the allegations contained in Paragraph 31 of Plaintiff's Original Complaint.

32. Defendant denies the allegations contained in Paragraph 32 of Plaintiff's Original Complaint.

33. Defendant denies the allegations contained in Paragraph 33 of Plaintiff's Original Complaint.

34. Defendant denies the allegations contained in Paragraph 34 of Plaintiff's Original Complaint.

35. Defendant denies the allegations contained in Paragraph 35 of Plaintiff's Original Complaint.

36. Defendant denies the allegations contained in Paragraph 36 of Plaintiff's Original Complaint.

37. Defendant denies the allegations contained in Paragraph 37 of Plaintiff's Original Complaint.

38. Defendant denies the allegations contained in Paragraph 38 of Plaintiff's Original Complaint.

39. Defendant denies the allegations contained in Paragraph 39 of Plaintiff's Original Complaint.

40. Defendant is without knowledge or information sufficient to form a belief as to the truth of Plaintiff's allegations contained in Paragraph 40 of Plaintiff's Original Complaint; therefore, Defendant makes no response to those allegations or, in the alternative, denies same.

41. Defendant denies the allegations contained in Paragraph 41 of Plaintiff's Original Complaint.

42. Defendant denies the allegations contained in Paragraph 42 of Plaintiff's Original Complaint.

Defendant denies the prayer of Plaintiff's Original Complaint.

DEFENSES

1. Plaintiff is not entitled to recover from Defendant as Defendant has caused him no injury.

2. Defendant denies that its actions were a proximate cause, producing cause or legal cause of any damage as alleged by Plaintiff. Rather, any damages were caused by Plaintiff's own actions, or the actions of third parties over which Defendant has no control.

3. Defendant avers that Plaintiff's injuries and damages, if any, were solely and proximately caused or contributed to by the actions and/or inactions of Plaintiff and were not caused by or through any fault or improper actions on the part of Defendant, and, therefore, Plaintiff is not entitled to recover from Defendant.

4. Defendant avers that any violation of the Texas Fair Debt Collection Act or the Federal Unfair Debt Collection Practices Act, which violations this Defendant expressly denies, was a bone fide mistake and/or a good-faith error and further, that Defendant has adopted reasonable procedures to avoid any such error.

5. Defendant specifically denies that all conditions precedent to Plaintiff's claim against Defendant have been met.

6. Defendant asserts that Plaintiff has failed to mitigate his damages and/or injuries, if any.

7. Defendant specifically denies that Plaintiff has demanded the return of Plaintiff's property that he alleges was wrongfully acquired by Defendant.

8. Defendant specifically denies that Plaintiff has requested or that Defendant has failed to provide Plaintiff with notice of how to collect his personal items that Plaintiff alleges were wrongfully acquired by Defendants.

9. Defendant avers that it did not threaten or coerce Plaintiff, but exercised its contractual right of seizure, repossession, or sale of Plaintiff's property, which did not require court proceedings. *See* TEX. FIN. CODE §392.301(b)(3); *e.g. McCaig v. Wells Fargo Bank*, 788 F.3d 463, 477-78 (5th Cir. 2015).

10. Defendant raises each and every affirmative defense required to be pled by applicable Rules of Civil Procedure and substantive law should said defenses become applicable as this action proceeds. Defendant specifically reserves the right to amend its answer and defenses with any and all defenses as discovery dictate.

WHEREFORE, PREMISES CONSIDERED, and fully answered, Defendant hereby demands judgment dismissing Plaintiffs' Complaint or that upon final trial and hearing hereof that no recovery be had from Defendant, but that Defendant go hence without delay and recover its costs, and for further relief to which Defendant is justly entitled and will ever pray.

Respectfully submitted,

WALTERS, BALIDO & CRAIN, L.L.P.

BY: /s/ Brett H. Payne
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ATTORNEY FOR DEFENDANT QUALITY
RECOVERY SERVICE, INC.

CERTIFICATE OF SERVICE

This is to certify that on this the 19th day of October, 2015, a true and correct copy of the foregoing has been forwarded to all counsel of record.

/s/ Brett H. Payne
BRETT H. PAYNE